FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * * * * *

The Petitioner herein requests a special hearing to approve the nonconforming use of the subject property as a four unit apartment building in a D.R. 10.5 zone as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by the Contract Purchaser, Landex, Inc., represented by David G. Johnston, appeared, testified and was represented by John B. Gontrum, Esquire. Also appearing and testifying on behalf of the Petition were Griffith Davis, a community representative, and Douglas Kennedy, a registered professional engineer, with KCW Consultants, Inc., who prepared Petitioner's Exhibit 1. Petitioner's Exhibit 1 contains additional notations placed thereon by the attorney for the Petitioner. The current property owner, Mr. Ronald Gajewski, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 2519 Yorkway, was improved by a four unit apartment building in 1943 or 1944. Testimony indicated that there are two units on the first floor of the building and two units on the second floor. The remaining portion of the basement is improved with storage and utility space. Tax records submitted evidenced that the subject building has been assessed over the years

and transferred as at least a four unit building continuously and without interruption since approximately 1944. Testimony and evidence presented substantiates that the building was originally constructed as a four unit apartment building and has been used consistently as a four unit apartment building since its original development. The evidence tends to indicate the subject property was zoned "D" residential during the 1945 Baltimore County Comprehensive Zoning. The evidence further establishes that the exterior parameters of the building have not changed or been altered since the original construction.

Numerous other cases have been considered over the years for nonconforming use in the immediate vicinity. Affidavits from those cases also were introduced by Petitioner and indicate that the Yorkway units were all built at about the same time in 1943 or 1944 as four unit apartment buildings. Over the years some buildings have added additional units in the basement area. In almost every case, without exception, nonconforming uses have been granted for at least four units. Case No. 89-103-SPH was decided in September, 1988 for 2532 Yorkway for a similar building in the next block. Additionally, Case Nos. 88-14-SPH and 86-290-SPH found that nonconforming uses existed for at least four apartments since prior to 1945. In the instant case, the Petitioner requests a nonconforming use for the original four apartment units only.

The first issue to be determined in a nonconforming use case is whether or not the property in question was legally and permissibly developed prior to the statutory change which created the alleged nonconforming status. The four unit apartment building in the instant case was constructed prior to the adoption of the 1945 zoning regulations. This property is often referred to by the Petitioner and in this Opinion as an apartment building. This building is an apartment house as that term was defined in the original Baltimore County Zoning Regulations (B.C.Z.R.). That term was then defined as:

> "A detached building used and/or arranged for occupancy as dwellings for three or more families as separate housekeeping units. All such housekeeping units shall have unity in use and be supplied, in common, with heat, sewerage and/or other public convenience or

There is evidence of heat and public utilities in common. Therefore, the building does comply with the "D" residential zoning placed on the land on January 2, 1945 for an apartment house.

The Petitioner has established that the building existed prior to January 2, 1945 or the beginning of zoning regulations.

The second principal to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the property. A determination must be made as to whether or not any change that has occurred is a different use and therefore breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

Clearly, the use of the subject property has not changed since The property has always been a four unit apartment building and there have been no changes or interruptions in that use. The subject property was also in compliance with the original "D" residential zoning for an apartment house for four (4) apartment units.

The Petitioner does not claim an expansion of this use beyond the original four apartments. The evidence establishes the apartments in the subject building have been occupied continuously and without interruption since approximately 1944.

Pursuant to the advertising, posting of the property and public hearing held and for reasons given above, the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED, by the Zoning Commissioner of Baltimore County, Maryland, this 29th day of December 1988 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a four unit apartment building in a D.R. 10.5 zone as more particularly described in Petitioner's Exhibit 1, be and the same is hereby

> Zoning Commissioner of Baltimore County

cc: Peoples Counsel

John B. Gontrum, Esquire, 809 Eastern Boulevard, Essex, Md. 21221

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

Dennis F. Rasmussen

John B. Gontrum, Esquire 809 Eastern Boulevard Essex, Maryland 21221

> RE: Petition for Special Hearing Case #89-251-SPH Contract Purchaser: Landex Corporation Legal Owner: Ronald Gajewski, et ux

Dear Mr. Gontrum:

Enclosed please find the decision rendered on the above captioned case. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

> Robort Haines Zoning Commissioner

cc: Peoples Counsel

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

#2513-item-216 "#2515-item-217 #2517-item-218 #2519-item-219 #2521-icem-220

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve _____ as a legal non-conforming use the following buildings (each with four

apartments) located on Yorkway, Baltimore County, Maryland (#2513, #2515, #2517, #2519, #2521)

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

> I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

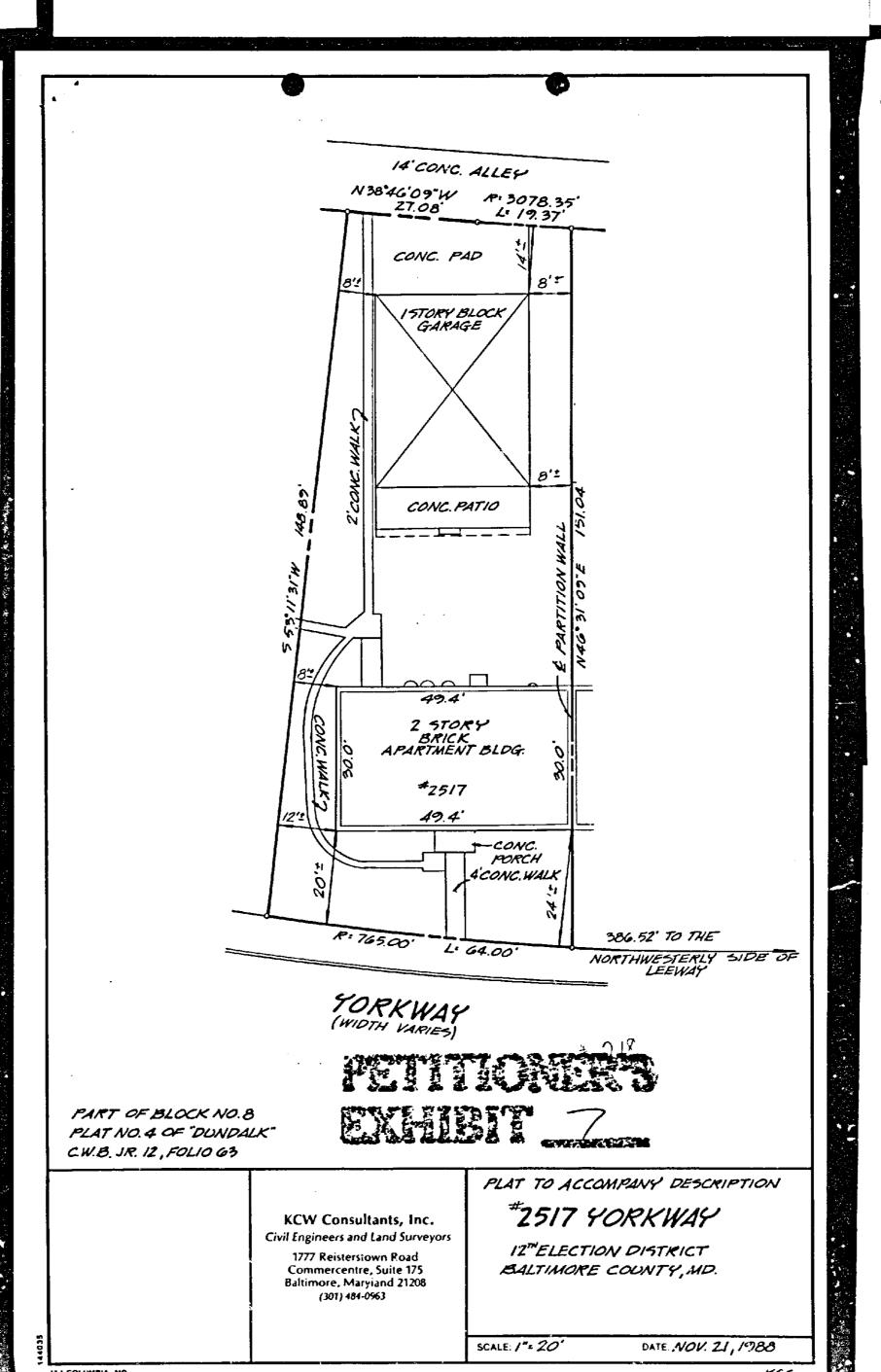
Contract Purchaser:	Legal Owner(s):	
Judith S. Siegel, President (Free or Print Name)	Ronald Gajewski, et. ux. (Type or Frint Name)	
Signature Landex Corporation	X Jonald Dajewski 288. Signature	
250 Centerville Road, Bldg. 6 Address		yΔ
Warwick, R.I. 02886 City and State	Signature Signature	<u>2 13</u> 12 1
John Gontrum	7713 Charlesmont Road 200 1	3.F.
(Type of Print Name)	Address Phone Voc. 2 Baltimore, Maryland 21222 DP	<u>ع د</u>
Signature	City and State	
Address Essex, Md. 21221	Name, address and phone number of legal owner, con- tract purchaser or representative to be contacted	
City and State	Name	
Attorney's Telephone No.: 301-686-8274	Address Phone No.	
ORDERED By The Zoning Commissioner of	Baltimore County, this day	

of _____, 19____, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at ____ o'clock

ESTIMATED LENGTH OF HEARING — 1/2HR. (over)

AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTES

REVIEWED BY: U.On DATE 11/29



Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

December 29, 1988



Community Development Administration 45 Calvert Street Annapolis, Maryland 21401

Benton Mortgage Company 5731 Lyons View Drive Nashville, Tennessee 37919

RE: Yorkway Apartments

Gentlemen:

I have this day taken testimony and evidence with respect to the following Yorkway Apartment Buildings:

2513 Yorkway 2515 Yorkway 2517 Yorkway 2519 Yorkway 2521 Yorkway 2506 Yorkway 2611 Yorkway 2613 Yorkway 2625 Yorkway 2605 Yorkway 2607 Yorkway 2627 Yorkway 2629 Yorkway 2504 Yorkway 2510 Yorkway 2511 Yorkway

Based on the testimony and evidence presented, I am issuing findings of fact and conclusion of law indicating that these buildings all have legal nonconforming uses as four unit apartment buildings.

The following properties 2609 Yorkway, 2619 Yorkway, 2527 Yorkway and 2529 Yorkway have all previously been found to have legal nonconforming uses. To my knowledge, there are no zoning violations outstanding on any of these buildings, and they may continue as four unit apartment buildings in conformance with the laws and regulations of Baltimore County.

Very truly yours,

J. Robert Haines

Zoning Commissioner

n K. Woody, L.S.

KCW Consultants, Inc. **Civil Engineers and Land Surveyors** 1777 Reisterstown Road Commercentre, Suite 175 Baltimore, Maryland 21208

(301) 484-0894 / 484-0963

John M. Cosaraquis, L.S. (Ret.)

Ttem

November 29, 1988

PETITIONER/CONTRACT PURCHASER: LANDEX CORPORATION 250 Centerville Road, Bld. 'F' Warwick, Rhode Island 02886 Attn: Ms. Judith Siegel (401) 732-5430

PROPERTY DESCRIPTION TO ACCOMPANY PETITION FOR SPECIAL HEARING 12th ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

> BEGINNING for the third thereof, at a point on the southwesterly line of Block 8, which is also the northeasterly line of Yorkway as now laid out, distant 386.52 feet northwesterly measured along the said southwesterly line of Block 8 from the northwesterly line of Leeway as now laid out 60 feet wide, all as shown on said. Plat, and running thence north 46 degrees 31 minutes 09 seconds east 151.04 feet, part of which distance is intended to be along the center line of a partition wall there situate, to intersect the southwesterly line of a 14 foot alley there situate, thence binding on the southwesterly line of said alley the two following courses and distances: northwesterly on a curve to the right, with a radius of 3078.35 feet for a distance of 19.37 feet and north 38 degrees 46 minutes 09 seconds west_

> 27.08 feet, thence south 53 degrees 11 minutes 31 seconds west 148.89 feet to intersect the aforesaid southwesterly line of Block 8, thence binding on the said southwesterly line of Block 8, southwesterly on a curve to the left, with a radius of 765.00 feet, for a distance of 64 feet to the place of beginning; the improvements thereon being known as No. 2517 Yorkway.

#2517 YORKWAY Acc. #12-13-043441

VETERANS ATTENTION

THE MOST SENSATIONAL OFFER EVER MADE. BRICK APARTMENT HOUSES 4 Individual Apartments In Each House have BACH APARTMENT HAS

LANCE BUTNOOM BIZE IS TEET & DICHES LONG AND IS TILT & DICHES WIDE BEDNOOM HAS TWO SPARATE CLOSETS FOR CLOTHES. LANCE THE BATHROOM WITHDATHTUS AND SHOWER BATH AND LANCE LINEN CLOSET. ENTRANCE MALL WITH COAT CLOSET. RITCHIN WITH BUILT-IN CABINETS, LINOLEUM, GAS DANGE AND WESTINGHOUSE ELECTRIC RETAIGERATOR HOT WATER HEATING PLANT WITH SEPARATE THERMORIAT IN EACH APARTMENT. BEPARATE STORAGE ROOM IN BASEMENT FOR EACH APARTMENT. LAUNDAY TUBS AND TOLLET IN BASEMENT. HARDWOOD FLOORS AND SUS FLOORS. CHURCHES OF ALL DENOMINATIONS, PLAYGROUNDS AND HODFIN SHOPPING CENTER NEARBY, AND A NEW MILLION DOLLAR SUCH SCHOOL WITHIN TWO SLOCES. SALT WATER BATHHIG BEACH WITHIN TIVE MINUTES RIDE.
CORNER HOUSES PRICE \$17,000,00
CONSTRUCTION OF THUSE HOMES WAS SUPRRIVISED AND INSURED BY

FEDERAL HOUSING ADMINISTRATION IF YOU HARR A CASIL PAYMENT OF \$500.00 AND THANCE YOUR MORTGAGE UNDER FALA. ... Your rent received from two apartments at \$15 2000 ponts -17:

TOTAL RECEIVED TER HONTH \$176.00 TOUR MORIGAGE WOULD BE \$16,800.00 TON 20 YEAR THRM YOUR MONTHLY PAYMENT ON THE MONIGAGE WOULD BE INTEREST FOR TIMET MONTH . I/II OF YOUR ANNUAL COUNTY THEES FJI.A. INSUMANCE..... I/II OF YOUR TIRE INSURANCE..... Balance of lucame left to you after murigage payment YOUR OTHER YEARLY EXPENSES FOR RUNNING THE HOUSE ARE COAL USED, 16 TONS AT 812.00 PER TON......\$119.00

LECTRICITY USED PER YEAR INVERAGES.....

AMOUNT LEFT FROM MONTHLY BENT AFTER PAYING MORIGAGE AND ALL EXPENSES 1 22.75 Add to this the amount ye a have paid off (saved) on your mortgage YOUR TOTAL MONTHLY PROFIT 65.80 OR YOU CAN LIVE IN ONE APARTMENT RENT FREE AND STILL HAVE A NICE INCOME ! BEE THE FURNISHED SAMPLE APARTMENT 1ST FLOOR 2554 YOUGWAY THE REALIST

Take 26 ear to Dundalk and Liberty Parkway; walk to end of 2500 block Liberty Parkway (Leeway); turn parkway I block. Sample House on corner. JEROME J. GEBHART, Agent

PHONE DUNDALK 1791

PETITIONER'S EXHIBIT 2

ZONING DEPARTMENT OF BALTIMORE COUNTY 89-75/-SPH

4 N. Center Place

CERTIFICATE OF PUBLICATION

OFFICE OF

Dundalk Eagle

Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204 494-3353 MOTICE OF HEARING The Zoning Commissioner of Baiti-more County, by authority of the Zoning Act and Regulations of Baltimore

County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as fol-Petition for Special Hearing CASE NUMBER: 89-251-SPH NE/S Yorkway, 420' NW of c/1 of Loeway (2517 Yorkway) 12th Election District 7th Councilmanic District

THURSDAY, DECEMBER 29, 1988 at 9:00 s.m.

SPECIAL HEARING: Nonconforming use of 2517 Yorkway (four apartla the event that this Petition is granted, a building permit may be is-sued within the thirty (30) day appeal period. The Zoning Commissioner will however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or pre-

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towern Maryland 21204

enue in Towson, Maryland 21

Petition for Special Heart

Special Hearing: Nonconforming use of 2517 Yorkway (four apartments) in the event that this Petition is

P. O. Box 8936 Dundalk, Md. 21222 December 8, THIS IS TO CERTIFY, that the annexed advertisement of

. Robert Haines in the matter of Zoning Hearings - Case #89-51-SPH - P.O. #07735 - REQ. #M20485 - 80 lines @ \$40.00. was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week successive weeks before the 19_{88} ; that is to say,

the same was inserted in the issues of Dec. 8, 1988

Kimbel Publication, Inc. per Publisher.

By K. E. Oelke

CERTIFICATE OF PUBLICATION

TOWSON, MD., December 9 1988 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on December 8, 1988

PO 07740

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353

J. Robert Haines

John B. Gontrum, Esq. 809 Eastern Boverlard

Essex, Maryland 21221

RE: Petitions for Special Hearing

Dennis F. Rasmussen

CASE NUMBERS: 89-249-SPH thru 89-264-SPH Your Client: Landex Corporation Date of Hearing: Thursday, December 29, 1988 at 9:00 a.m.

Dear Mr. Gontrum:

Please be advised that \$1,450.08 is due for advertising and posting of the above referenced properties. All fees must be paid prior to the hearings. Do not remove the sign and post set(s) from the properties.

THIS FEE MUST BE PAID ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT

Please make your check payable to Baltimore County, Maryland and bring it to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before the hearings are scheduled

Please note that due to the number of signs to be returned, here will be no need for your client to remove and return the signs, as this office will do same.

Very truly yours,

J. ROBERT HAINES Zoning Commissioner of Baltimore County

cc: Mr. Walter Stealey Ms. Judith S. Siegel

* \$ 90.63 each frogerly

AFFIDAVIT OF NANCY CAPECCI

I, NANCY CAPECCI, hereby certify that I am over 18 years of age and am competent to testify as follows:

1. My husband and I first purchased 2528 Yorkway in 1946 and lived there from 1947 through 1962. We continued to own that property until 1985, but rented it between 1962 and 1985. I reacquired the property in 1987.

 During the period of time that I lived at 2528 Yorkway, as well as the period that I was visiting the property on a weekly and sometimes a daily basis in my capacity as a landlord, I was acquainted with the other properties along Yorkway.

3. I have testified in Case Number 89-103 and have given an Affidavit in that case. My testimony and Affidavit are correct with respect to the facts recited. In Case Number 89-103-SPH I identified the flier, a copy of which is attached hereto and made a part hereof as part of the original advertising for the premises along the 2500 and 2600 Yorkway.

4. All of the apartment buildings in the 2500 and 2600 block of Yorkway were originally built prior to 1945 as four unit apartments. Some of the units had basement apartments or later added basement apartments to them.

5. I have also testified in Case Number 88-14-SPH before the Board of Appeals with respect to 2619 Yorkway, and feel competent to testify that all of these buildings which are the subject to the case here today were originally built prior to 1945 as four

> PETITIONER'S EXHIBIT 3A

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines

Dennis F. Rasmussen

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Special Hearing CASE NUMBER: 89-251-SPH NE/S Yorkway, 420' NW of c/l of Leeway (2517 Yorkway 12th Election District - 7th Councilmanic Legal Owner(s): Ronald Gajewski, et ux Contract Purchaser(s): Landex Corporation HEARING SCHEDULED: THURSDAY, DECEMBER 29, 1988 at 9:00 a.m.

SPECIAL HEARING: Nonconforming use of 2517 Yorkway (four apartments).

In the event that this Petition is granted, a building permit may be issues within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County

unit apartment buildings and during the period in which I lived and leased my units these buildings were continuously and uninterruptedly used for at least four apartments.

STATE OF MARYLAND, County of Baltimore, to wit:

I HEREBY CERTIFY, That on this product day of the current, in the year one thousand nine hundred and eighty-eight, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared NANCY CAPECCI known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be her act, and in my presense signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires:

AFFIDAVIT

My name is Connie Ports and my address is Apartment B, 2607 Yorkway, Dundalk Maryland 21222. I first moved to the Yorkway area in 1963 and after leaving for a short while, I moved back again in 1971. I have acted as a manager for several of the apartment buildings in the 2600 block of Yorkway and at one time managed 2619 Yorkway. I testified before the Baltimore County Board of Appeals in Case No. 88-14 with respect to 2609 and 2619 Yorkway. It was my testimony at that time under oath, that I have been in all of the buildings along the 2600 block of Yorkway and that they were all identical as four (4) unit apartment buildings, except that some apartments had added an additional apartment in the basement. It was and is my testimony that these buildings were all constructed originally as four (4) bedroom unit apartments and during the familiarity with these apartments for the 1960's up to the present time, these buildings have all been used continuously and uninterruptedly with four (4) apartment units per building.

I solemnly declare and affirm that the above statements are true to the best of my knowledge, information and belief.

I hereby certify that on this 28 day of Decem 1988, before me, Notary Public for said State and County, personally appeared CONNIE PORTS, Affiant, and solemnly affirmed under the penalties of perjury and under oath in due form of law that the contents of the foregoing paper are true to the best of her knowledge, information and

My commission expires: 7/1/90

LAW FIRM ROMADKA, GONTRUM & HENNEGAN ESSEX, MARYLAND

PETITIONER'S EXHIBIT 3B

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AFFIDAVIT

My name is James Thompson and I am the Zoning Enforcement Supervisor for the Department of Planning and Zoning in Baltimore County, Maryland. I have been employed in the Zoning Office as a Zoning Enforcement Officer and as a Zoning Inspector for 11 1/2 years. For the past 6 years, I have acted as the Chief of the Zoning Enforcement Section. Over these years, I have become acquainted with the apartment buildings on Yorkway in the Dundalk area of Baltimore County. Numerous violations have been filed against various units on the Yorkway complex for exceeding the permitted number of units within the given zone. A review of the zoning records on the numerous violations which we have researched over the past decade indicates that the apartment units on the 2500 and 2600 block of Yorkway were all built about the same time in 1943 and 1944. The units were all built as four (4) unit apartments. When zoning became effective in January in 1945, these apartment buildings were classified as a Class D residential zone. This zone allowed three (3) units or more per dwelling. However, the original regulations provided for non-conforming uses as follows:

"A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such non-conforming use to a conforming use, or any attempt to change from such

* Tale Was to the St. A.

IN RE:

10/24/88:819.RG:ECC10239

PETITION FOR SPECIAL HEARING

Petitioners

SW/C Yorkway and Leeway

(2532 and 2534 Yorkway

12th Election District

7th Councilmanic

up to the present.

BRIJDEO SHIVNARAIN,

DANIEL ABBOTT, et al

PETITIONERS EXHIBIT 4

ZONING COMMISSIONER

BALTIMORE COUNTY

Case No. 89-103-SPH

2517

PETITIONER'S

BEFORE THE

* * * * * * * * *

AFFIDAVIT

there for approximately two (2) years. We attempted to purchase

but were unable to do so and instead rented the property. We

then moved to 6918 Homeway, very nearby to this apartment neigh-

borhood, and continued to frequent the Yorkway area to visit

family and friends over the course of the next forty (40) years

Yorkway, an end of group, in that same originally contained four

(4) apartment dwelling units with a sales office in the basement,

which in 1946 or shortly thereafter, was converted to a fifth

children of families who lived in that basement apartment at 2534

Yorkway, and can state that I have frequently visited torkway

years of age and competent to testify as follows:

apartment dwelling unit in the basement.

I, Marge Capecci, hereby certify that I am over 18

1. I first lived at 2526 Yorkway in 1945 and lived

2. I specifically recall the property known as 2534

3. I specifically recall my children playing with the

discontinuance of such non-conforming use for a period of one (1) year, or in case a non-conforming structure shall be damaged by fire or otherwise to the extent of seventy five (75%) percent of its value, the right to continue to resume such non-conforming use shall terminate, provided, however, that any such lawful non-conforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original non-conforming use". Section XI, 1945, B.C.Z.R. These non-conforming use provisions were later amended in the 1955 laws pertaining to zoning to the current Section 104 of the Baltimore County Zoning Regulations. As a result of the status of the Baltimore County Zoning Regulations prior to 1955, our office adopted a procedure that allowed four (4) units within a apartment building on Yorkway. Any units in a building in excess of four (4) had to be shown to exist prior to 1955. Our finding was based not only on the zoning history of the property and of the changes of the zoning regulations, but also on the physical confirmation of the buildings which were designed for two (2) units on a first floor with a full basement underneath. Conversations between the inspectors and the neighbors usually indicated that the buildings were always intended to be four (4) unit buildings.

The current zoning of D.R. 10.5 would not, however, allow this

I solemnly declare and affirm that the above statements are true to the best of my knowledge, information and belief.

I hereby certify that on this 28 day of 100. 1988, before me, Tames thompson Notary Public for said State and County, personally appeared JAMES THOMPSON, Affiant, and solemnly affirmed under the penalties of perjury and under oath in due form of law that the contents of the foregoing paper are true to the best of his knowledge, information and belief.

My commission expires: $\frac{7-1-0}{0}$

area and these particular buildings between 1946 and the prese and can state that same have been continuously rented and cupied with the exception of only partial and temporary vacance normal and customary to multi-family rentals, up through

4. To the extent that I may testified to further m ters not contained herein at an open hearing on September 1988 before the Deputy Zoning Commissioner for Baltimore Cou! my testimony would be the same as the testimony offered that c and I specifically reaffirm, restate, and incorporate my t

- 2 -

Marge Capecci
6819 Homeway Avenue
Dundalk, Maryland 2122

SW/C Yorkway and Leeway (2532 and 2534 Yorkway) 12th Election District 7th Councilmanic BRIJDEO SHIVNARAIN,

DANIEL ABBOTT, et al

IN RE:

10/24/88:818.RG:ECC10239

PETITION FOR SPECIAL HEARING

Petitioners

I, Nancy Capecci, hereby certify that I am over 18 years of age and competent to testify as follows:

* * * * * * * * *

<u>AFFIDAVIT</u>

BEFORE THE

ZONING COMMISSIONER

BALTIMORE COUNTY

Case No. 89-103-SPH

Alphastoni I first purchased 2528 Yorkway in 1946 and lived there from 1947 through 1962. W continued to own that property until 1985, but rented it between 1962 and 1985. I reacquired the property in 1987.

2. During the entire period of time that I lived at 2528 Yorkway, as well as the period that I was visiting the property on a weekly and sometimes a daily basis in my capacity as a landlord, the property known as 2534 Yorkway consisted of five (5) apartment dwelling units. When we first moved in, it was 4 (four) apartment units with a sales\rental office down in the basement, but that office was converted to an apartment shortly after we moved in, and definitely prior to 1954

EXI-IIBIT

10/24/88:819.RG:ECC10239

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present time.

timony from that day into this Affidavit. I SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES PERJURY AND UPON MY PERSONAL KNOWLEDGE THAT THE MATTERS AND FA STATED HEREIN ARE TRUE.

PETTION EXHIBIT 5

10/24/88:818.RG:ECC10239

All of the buildings in that entire area, where I have lived and frequented since 1946, including 2534 Yorkway, have been continuously rented and occupied with the exception of only partial and temporary vacancies normal and customary to multi-family rentals, up through the present time.

4. To the extent that I may have testified to further matters not contained herein at an open hearing on September 29, 1988 before the Deputy Zoning Commissioner for Baltimore County, my testimony would be the same as the testimony offered that day, and I specifically reaffirm, restate, and incorporate my testimony from that day into this Affidavit.

I SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON MY PERSONAL KNOWLEDGE THAT THE MATTERS AND FACTS STATED HEREIN ARE TRUE.

Nancy/Cape£ci Sunberry Road Baltimore, Maryland 21222

December 28, 1988

IN RE: PETITION FOR SPECIAL HEARING N/S Yorkway, 225' E of Leeway (2609 Yorkway) 12th Election District

DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

Kenneth W. Martin, et ux, Case No. 86-290-SPH Petitioners

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The Petitioners herein request a Special Hearing to determine whether or not approval should be granted for the non-conforming use of 2609 Yorkway as a four apartment building since 1945, and furthermore, the non-conforming use of two additional apartments in existence since 1951.

Pursuant to the advertisement and posting of the above referenced property, a public hearing on the Petition was held on January 28, 1986, at which time one of the Petitioners testified that six apartments had been rented continuously since his purchase of the property in 1980. A witness testified that both basement apartments were occupied from spring to fall of 1957.

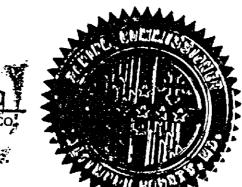
Two Protestants testified that the building was constructed for four apartments. One of the Protestants testified that the building was constructed in 1945; that in 1963 he was aware of one basement apartment; and that currently he can see a cat living in another basement apartment. The other Protestant testified that through the years, he gradually became aware that there were basement apartments in the neighborhood.

At the request of the Petitioner, the case was continued. The file indicates that the Petitioner would contact the Deputy Zoning Commissioner within 60 days to arrange a date to continue the case. The file includes copies of both a July and a September letter from the Deputy Zoning Commissioner asking that the Petitioner request either a continuation or a dismissal of the case. At this

After due consideration of the testimony and evidence presented herein, in the opinion of the Deputy Zoning Commissioner of Baltimore County, it appears that 2609 Yorkway enjoys a non-conforming status as a four apartment building, but the date of the addition of two basement apartments and whether or not they have been used continuously as such, has not been proven.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 16 day of October, 1986, that the herein request for the nonconforming use of 2609 Yorkway as a four apartment building since 1945 is hereby GRANTED, from and after the date of this Order. It is FURTHER ORDERED, that the request to extend the non-conforming use to the two basement apartments in existence since 1951, for a total of six living units, is hereby DENIED.





BALTIMORE COUNTY, MARYLAND

- 2 -

INTER-OFFICE CORRESPONDENCE

J. Robert Haines TO Zoning Commissioner Pat Keller, Deputy Director FROM Office of Planning and Zoning

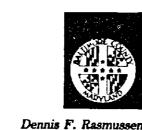
SUBJECT Zoning Petition Nos. 89-249-X thru 89-264-X

The applicant is requesting a special hearing to establish four apartment units within 19 buildings, the majority of which constitute York Park as shown on the applicant's site plan dated October 20, 1988. It is not clear from the applicant's submittal if buildings 2615, 2609, 2527 and 2529 are included in this request. Baltimore County has been involved with various improvements to this project. Money has been utilized in the past to rehabilitate and upgrade apartments within this project. There has also been an effort to clean up the railroad right-of-way that is located along the rear of block No. 9. Staff has no detailed comments or recommerdation regarding this request.

PK/sf

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

December 20, 1988



Judith S. Siegel, President 250 Centerville Road Building Six Warwick, Rhode Island 02886

> RE: Case Numbers 89-249-SPH through 89-264-SPH - Yorkway

Upon review of the documentation which you have submitted in the above referenced cases supporting the evidence of a nonconforming use in the 16 locations on Yorkway which are the subject of the above referenced cases, I am satisfied that if all of the dwellings were constructed with four dwellings prior to January 2, 1945 that obviously an apparent nonconforming use existed at one time. Due to the extreme emergency of your mortgage obligations prior to December 31, 1988, I will provisionally approve the building permits subject to a final determination upon presentation of evidence in the hearing on December 29th. The 16 cases have been advertised and a hearing will occur on the 29th which will allow any protestants to provide any evidence in opposition to the existence of the nonconforming use.

Very truly yours,

Zoning Commissioner

APPLICATION FOR PERMIT BALTIMORE COUNTY MARYLAND THE ACCOUNT 12 13 043 441 OFFICE OF THE BUILDING ENGINEER
TOWSON, MARYLAND 21204 Mailing Address 250 Can TERVILLE ROOM WALLER RISERY OATE INC. Ronalo Gajessi 1713 CHaelo mont Ro. 2/222 2517 Unkway, 386' NW of Securit A. TYPE OF IMPROVEMENT RESIDENTIAL

A TITE OF AMUSEMENT, RECREATION, PLACE OF AMUSEME OR AMUSEMENT, RECREATION, PLACE OF ASSEMBLY CONDITIONED ON THE GRANT OF THE 5 PH. REQUESTED, A PARKING GARAGE

S. D. BERNIED, THIS APPROVAL IS VOID AND THE PROPERTY. SERVICE STATION, REPAIR GARAGE

A. D. BERNIED TO ITS ORIGINAL CONDITION.

HOSPITAL, INSTITUTIONAL, NURSIP DESCRIBE PROPOSED WORK

1 OR 2 FAM, CODE 1978 BOCA CODE 1 16. OFFICE, BANK, PROFESSIONAL 16. PUBLIC UTILITY 17. SCHOOL, COLLEGE, DTHER EDUCATIONAL 18. 🔲 SIGN B. OWNERSHIP UNITED SHOW FOR PROPER USE STIMATED COST OF MATERIAL B LABOR 19. STORE MERCANTILE RESTAURANT 1 STRUCTURE STEEL | NE PUBLIC SYSTEM | EXISTS | PROPOSED Z. WOOD FRAME 4. REINF. CONCRETE SINGLE FAMILY UNITS 2 PRIVATE SYSTEM EXISTS PROPOSED TYPE OF HEATING FUEL 1. TOTAL NO. OF BEDROOMS _ IS THERE CENTRAL AIR CONDITIONING 3. ELECTRICITY MULTI FAMILY UNITS HOW MANY APARTMENTS HAVE 1. YES 2. NO 2. OIL 4. 🔲 COAL IS THERE AN INCINERATOR DIPE OF SEWAGE DISPOSAL 2. EFFICIENCY INO SEPARATE BEDROOMS) 1. NO 2. YES - WITH AIR POLLUTION CONTROL 2. PRIVATE SYSTEM EXISTS PROPOSED 3. YES - WITHOUT AIR POLLUTION CONTROL NO. OF ELEVATORS TO BE INSTALLED SEPTIC EXISTS PROPOSED NUMBER OF OFF STREET PARKING SPACES A THREE BEORDOMS OR MORE PRIVY EXISTS PROPOSED & TOTAL NO. OF BEDROOMS F DIMENSIONS 1 TOTAL NO. OF APARTMENTS _ II HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE SALTIMORE COUNTY INVESTIGATION FEE NO PERMIT FEES REFUNDED

